

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
GABINO GENAO,

Plaintiff,

-v-

CITY OF NEW YORK; C.O. MARSHA LYNCH; C.O.
DREW WILLIAMS; C.O. ANTHONY MORALES JR.;
CAPT. PHILLIPS; C.O. KRISTINA FORD, RHU DR. HO;
and CAPT. KEISHA LEMON,

Defendants.

CIVIL ACTION NO.: 20 Civ. 6507 (PGG) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge:

The Clerk of Court is respectfully directed to mail (i) a copy of **this Order**, and (ii) the annexed transcript of the October 31, 2018 Infraction Hearing, to Mr. Genao at the address below.

Dated: New York, New York
August 23, 2022

SO ORDERED.



SARAH L. CAVE
United States Magistrate Judge

Mail To: Gabino Genao
ID#22B1480
Attica C.F.
P.O. Box 149
Attica, NY 14011-0149

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
GENAO, : Docket #20cv6507
 :
Plaintiff, :
 :
- against - :
 :
CITY OF NEW YORK, et al., : New York, New York
 : October 31, 2018
Defendants. :
----- : INFRACTION HEARING

INTERVIEW BETWEEN CAPTAIN KELECIA PHILLIPS
AND GAMBINO GENAO (PLAINTIFF)

Transcription Service: Carole Ludwig, *Transcription Services*
155 East Fourth Street #3C
New York, New York 10009
Phone: (212) 420-0771
Email: Transcription420@aol.com

Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.

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CAPTAIN KELECIA PHILLIPS: Genao Gambino, CCPSU, today is October 31, 2018. The time now is approximately 12:40 hours. I'm Captain Phillips, (indiscernible) 1448 for adjudication. Please state your name and booking case number for the record.

MR. GENAO GAMBINO (THE PLAINTIFF): Gambino, Genao, 1131700734.

CAPTAIN PHILLIPS: Your name and booking case number has been confirmed with the report and notice of infraction as well as the MA lookup service. We are here for an incident that occurred on GRBC on October 25, 2018, 9B bottom tier, 13:35 hours (indiscernible) time of the incident, C046514, recording official (indiscernible) Captain Paige 1829, on 10/26/18 0120 hours, you refused to sign, witnessed by CO Brenner 8519, charges 101-13, assault with a weapon, 105-10 creating a fire/health/safety hazard, do you understand the charges?

THE PLAINTIFF: Yes.

CAPTAIN PHILLIPS: Do you need a hearing facilitator, witness or interpreter?

THE PLAINTIFF: A witness.

CAPTAIN PHILLIPS: Who is your witness?

THE PLAINTIFF: Captain Lemmon, CO Morales, and

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CO Ford.

CAPTAIN PHILLIPS: What question do you have for these staff members?

THE PLAINTIFF: I want Morales to answer if I asked him if, what -- when I asked him, are you writing the question down or is it just -- all right, what housing area did he tell me I was going to and why --

CAPTAIN PHILLIPS: Hold on.

THE PLAINTIFF: An who authorized --

CAPTAIN PHILLIPS: Hold on one second.

THE PLAINTIFF: I'm sorry. And also what did CO Lynch, that's another witness by the way, CO Lynch --

CAPTAIN PHILLIPS: Hold on, one person at a time, are we still on Morales?

THE PLAINTIFF: Morales --

CAPTAIN PHILLIPS: Okay, go ahead.

THE PLAINTIFF: What did CO Lynch tell him to inform me of? And Captain Lemmon, I asked too for her, and then Captain Lemmon I want to ask her when she seen me why did she allow me to talk into that crib knowing that I'm not from that housing area, as well as that same question.

CAPTAIN PHILLIPS: Hold on. Go ahead.

THE PLAINTIFF: And I want to ask that question

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to CO Ford as well because --

CAPTAIN PHILLIPS: We're just doing the questions right now --

THE PLAINTIFF: All right.

CAPTAIN PHILLIPS: So Ford the same question.

THE PLAINTIFF: And for Lynch, what did he tell CO Morales about putting me in that housing area? And I want to also --

CAPTAIN PHILLIPS: Hold on.

THE PLAINTIFF: And what's my SRG status --

CAPTAIN PHILLIPS: This is for Lynch?

THE PLAINTIFF: Lynch, yeah, what's my SRG status, and what housing area did I come from?

CAPTAIN PHILLIPS: That's it? This states on October 25, 2018, I, CO Ford 6514 was assigned as the 7-9 building escort on the 1300-2131 hour tour at approximately 1735 hours tried to escort Inmate Genao Gambino 1131700734 from the sec intake through the housing area 9B. Upon entering the area (indiscernible) Inmate Genao ran and made a swiping motion towards the facial area of Inmate Senoa Jaquan (phonetic) 3491611791. Inmate Genao was then escorted to the vestibule area terminating the incident. The area supervisor was notified.

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2 The investigation was conducted by Captain
3 Paige on October 26, 2018, CO Ford was assigned as the
4 7-9 building escort on the 109 tour, at approximately
5 1735 hours CO Ford escorted Inmate Genao, Gambino from
6 the sec intake to housing area 9B. Upon entering the
7 area (indiscernible) Inmate Genao ran and made swiping
8 motion towards the facial area of Inmate Senoa Jaquan.
9 Inmate Genao was then escorted out the area onto the
10 vestibule area terminating the incident. Inmate
11 (indiscernible) sustained a laceration to the left cheek
12 and left neck. The tour commander deemed the incident a
13 slashing, COD 233918, upon the charge is a warrant on
14 the first adjudication for a hearing.

15 In have an incident report from CO Ford, on
16 Thursday, October 25, 2018, approximately 1725 hours I,
17 CO Ford, assigned to the 7-9 building escort post on the
18 1300-2131 hour tour responded to a radio transmission of
19 said intake. (indiscernible) to report (indiscernible)
20 to the sec intake. Upon arriving to the area sec intake
21 staff informed this writer that one inmate was assessed
22 and cleared by security staff and was to be escorted and
23 housed in housing area 9B. Once this writer obtained
24 Inmate Genao, Gambino, 1131700734, floor locator card,
25 this writer recognized the floor locator card color was

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2 yellow indicating general population inmate. This writer
3 then began to pedigree the aforementioned inmate by
4 verifying the inmate name, address, booking case number
5 (indiscernible) address, date of birth to which inmate
6 verified the above stated information. Inmate verified
7 all security devices prior to exiting the sec intake
8 magnometer (phonetic). This writer then proceeded to
9 escort inmate to housing area 9B after obtaining
10 clearance from all (indiscernible) posts. After clearing
11 magnometer, (indiscernible) corridor posts this writer
12 entered into 9 building vestibule and pedigreed inmate a
13 second time. This writer pat-frisked inmate in
14 accordance with all procedures as outlined in control
15 and search contraband directive. Upon attempting to
16 utilize the handheld Transfrisker this writer was
17 informed by the non-patrol pulse officer that the
18 security device was inoperable, no battery light. This
19 writer then inquired the status of -- this writer then
20 inquired the status of inmate Genao's security risk
21 group affiliation to which Inmate Genao indicated
22 compliance, (indiscernible) entered housing area 9B.
23 This writer informed the non-patrol pulse officer as for
24 sec intake of designated cell as reflected and
25 prewritten on Inmate Genao's floor locator card was 9B-

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2 09 cell. This writer then entered into housing area 9B,
3 escorted inmate to his respective cell 09, additional
4 space on 600AR which is attached inside housing area 9B.
5 Inmate dropped his property and ran over to Inmate
6 Jaquan 349161179 housed in 9B 37 cell who was conducting
7 an in-house feeding as the facility was placed on
8 lockdown status. Inmate Genao refused to comply with
9 verbal direct orders given to stop. Inmate Genao
10 refused to comply by then striking Inmate
11 (indiscernible) with a cold fist punch to the facial
12 area. This writer then instructed the inmate to exit the
13 housing area to which he complied and stepped into the 9
14 building vestibule. This writer then notified the on
15 scene area supervisor of the situation at hand. I
16 (indiscernible) the housing area 9B officer approached
17 the 9B housing area door and stated Inmate Senoa is
18 bleeding. The area supervisor then requested a level B
19 activation via portable radio transmission. This writer
20 activated the Pro Team, awaited the Pro Team's arrival
21 until Inmate Genao was escorted out of the affected area
22 to the main intake. Respectfully submitted, CO Ford,
23 6514.

24 I have the incident report from CO Gordon,
25 8166. On Thursday, October 25, 2018, I, CO Gordon

1 assigned to the 3-11 tour, (indiscernible) received the
2 transfrisker in front of housing area 13B, 18 cell --
3 I'm sorry, received the transfer from housing area 13B,
4 18 cell. Inmate Genao was pat-frisked after arriving in
5 9 building by escort Officer Ford. This writer
6 pedigreed the inmate and opened the B side door for him
7 to be secured. After said inmate entered the housing
8 area, this writer heard CO Ford requesting for the B
9 door to be opened. This writer buzzed the door and CO
10 Ford gave inmate a direct order to exit the housing
11 area. She then secured the door. CO Ford informed this
12 writer that Inmate Genao had just assaulted Inmate 9B-37
13 Senoa Jaquan. The area supervisor was also made aware
14 and a Pro Team was requested. The Pro Team led by
15 Captain Ellis responded to the area and escorted both
16 inmates out of the area separating, hence terminating
17 the incident.

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19 I have injury report FY19976 for Senoa Jaquan,
20 patient has laceration of left cheek and left neck, seen
21 by MD Borecki (phonetic), Michael Borecki. Injury for
22 FY19979 for Genao, Gambino, male patient, denies any
23 injury, seen by PA Guy Kelly.

24 (indiscernible) the notice of the pre-hearing
25 detention, on October 25, 2018, approximately 1735

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2 hours, Inmate Genao, Gambino entered housing area 9B and
3 without warning ran and made a swiping motion towards
4 the facial area of Inmate Senoa Jaquan. Inmate sustained
5 a laceration to his left cheek and left neck. Incident
6 was deemed a slashing. CLD233918, Inmate Genao is to in
7 placed in PG status for the safety and security of the
8 institution. This was prepared by Captain Paige, 1829
9 (indiscernible) 1011 states you were served by Captain
10 Paige on 10/26/18 0120 hours, you refused to sign,
11 witnessed by CO Brenner, 8519.

12 I have the pre-hearing detention lockdown
13 clearance report. Inmate inquiry (indiscernible)
14 printout, the inmate statements saying you refused to
15 provide a written or verbal statement --

16 THE PLAINTIFF: That's not true, I wrote a
17 statement.

18 CAPTAIN PHILLIPS: Okay, and that's all the
19 supporting documentation that I have. Genao, Gambino,
20 how do you plead, guilty, not guilty or guilty by
21 explanation?

22 THE PLAINTIFF: I want to have another, I want
23 to have another witness, I want to ask Jaquan, Sequan if
24 I, if I did anything to him, I want you to add him
25 there, the complainant or the witnesses, whoever he is,

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if I cut him, to ask him how or did I hit him, ask did I cut him or slash him. And then I want you ask Ms. Ford, once again, after she searched me did she find any contraband? And when they searched me at intake did they find any contraband?

Not guilty.

CAPTAIN PHILLIPS: What is it?

THE PLAINTIFF: Not guilty.

CAPTAIN PHILLIPS: Any testimony?

THE PLAINTIFF: No.

CAPTAIN PHILLIPS: At this time this hearing is going to adjournment to afford Genao, Gambino, his witnesses. He is unable to sign at this time because he is in a hand restraint at this time. Once we get the witnesses' statements we will resume with this hearing. This concludes the hearing at this time.

(End of recording.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of the infraction hearing in the case of Genao v. City of New York et al, Docket #21cv6507, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: August 22, 2022